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(2010) 03 DEL CK 0360

In the Delhi High Court

Case No : Mac. App. No. 453 of 2009

The Management of DTC APPELLANT

Vs

Thakur Prasad Tiwari and Others RESPONDENT

Date of Decision : 17-03-2010

Acts Referred:
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2010) 03 DEL CK 0360

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Arati Mahajan Shedha, for the Appellant; Sushil Kumar, for R-1 to 3, Salekh Chand Yadav, for R-4, Hetu Arora and Amrita Sharma for R-5, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 6,85,843.60 has been awarded to the claimants/ respondents No. 1 to 4.

2. The accident dated 29th August, 2005 resulted in the death of Inder Mani. The deceased was survived by his widow, minor daughter and parents who filed the claim petition before the learned Tribunal.

3. The deceased was hit by DTC Bus No. DL-1PB-0952 which was being towed by recovery van No. DL-1GB-5611. The DTC Bus bearing No. DL-1PB-0952 was insured with National Insurance Company Limited whereas the recovery van No. DL-1GB-5611 was not insured. Criminal case under Sections 279/304-A of Indian Penal Code was registered against the driver of the DTC bus as well as the recovery van. The accident was proved by the eye witness PW-2. The Claims Tribunal held that the drivers of DTC bus as well as recovery van were negligent and their liability was held to be 50% each. The National Insurance Company Ltd. has deposited 50% of the award amount with the Claims Tribunal and the same has been released to the claimants.

4. The finding of the Claims Tribunal with respect to the 50% liability of DTC and 50% of National Insurance Company is based on the evidence on record and is upheld.

5. The appeal is dismissed.

6. The appellant has deposited a sum of Rs. 3,89,153/-with the Registrar General in terms of the order dated 18th September, 2009. The statutory amount of Rs. 25,000/- also forms part of the award. As such, there is a sum of Rs. 4,14,153/- with the Registrar. The Registrar General is directed to release a sum of Rs. 64,153/- to respondent Nos.2 and 4 in equal shares. The remaining amount of Rs. 3,50,000/- be kept in fixed deposit in the following manner:

(i) Fixed deposit for Rs. 25,000/- in the name of respondent No. 4 for a period of 6 months.

(ii) Fixed deposit for Rs. 25,000/- in the name of respondent No. 4 for a period of one year.

(iii) Fixed deposit for Rs. 25,000/- in the name of respondent No. 4 for a period of one and a half years.

(iv) Fixed deposit for Rs. 25,000/- in the name of respondent No. 4 for a period of two years.

(v) Fixed deposit for Rs. 25,000/- in the name of respondent No. 1 for a period of six months.

(vi) Fixed deposit for Rs. 25,000/- in the name of respondent No. 1 for a period of one year.

(vii) Fixed deposit for Rs. 25,000/- in the name of respondent No. 1 for a period of one and a half years.

(viii) Fixed deposit for Rs. 25,000/- in the name of respondent No. 2 for a period of two years.

(ix) Fixed deposit for Rs. 25,000/- in the name of respondent No. 2 for a period of two and a half years.

(x) Fixed deposit for Rs. 25,000/- in the name of respondent No. 2 for a period of three years.

(xi) Fixed deposit for Rs. 1,00,000/- in the name of respondent No 3, till she attains the age of 18 years.

7. The interest on the fixed deposit of respondent No. 4 shall be paid to respondent No. 4 monthly by automatic credit of interest to her Saving Bank Account at Faizabad. The interest on the fixed deposits of respondent Nos. 1, 2 and 3 shall be paid to respondent No. 1 monthly by automatic credit of interest to his Savings Bank Account at Distt. Gonda, U.P.

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8. Withdrawal from the aforesaid account shall be permitted to respondent No. 1 and respondent No. 4 after due verification and the Bank shall issue photo Identity Card to respondent No. 1 and respondent No. 4 to facilitate their identity.

9. No cheque book be issued to respondent No. 1 and respondent No. 4 without the permission of this Court.

10. The Bank shall issue Fixed Deposit Pass Book instead of the FDRs to the appellants and the maturity amount of the FDRs be automatically credited to the Saving Bank Account of the beneficiary at the end of the FDR.

11. No loan, advance or withdrawal shall be allowed on the said fixed deposit receipts without the permission of this Court.

12. Half yearly statement of account be filed by the Bank in this Court.

13. On the request of respondent No. 1 and respondent No. 4, the Bank shall transfer the Savings Account to any other branch according to the convenience of them with respect to their fixed deposits.

14. The respondent Nos.1 to 4 shall furnish all the relevant documents for opening of the Saving Bank Account and Fixed Deposit Account to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi.

15. Copy of the order be given dasti to counsel for both the parties under the signatures of the Court Master.

16. Copy of this order be also sent to Mr. M.M. Tandon, Member-Retail Team, UCO Bank Zonal, Parliament Street, New Delhi (Mobile No. 09310356400) through the UCO Bank, High Court Branch under the signature of Court Master.

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